

Legislative Overview | April 2014

This overview highlights some of the many important budgets and bills that were critical to people with developmental disabilities and their families during the 2014 legislative session. For more detailed information on a particular bill, visit <http://mlis.state.md.us/#bill> and type the bill number in the box provided. The Governor has not yet signed into law all of the bills that passed.

DEVELOPMENTAL DISABILITIES ADMINISTRATION BUDGET

DDA FY 2015 Budget Expansion July 1, 2014 - June 30, 2015 Includes General Funds, Special Funds & Matching Federal Funds (est.)		
	<u>Increase in funding</u>	<u>Impact (est.)</u>
TRANSITIONING YOUTH	\$5.1 million Total Funds (<i>\$2.9m General Funds + \$2.2m in Federal Funds</i>)	Approximately 596 young adults leaving school will receive employment/day services. This is about half the amount spent on TY in FY2013 for the same number of people. DDA reports that this is an accurate cost estimate.
WAITING LIST	\$2.6 million Total Funds (<i>\$1.4m General Funds + \$1.2m Federal Funds</i>)	An estimated 99 people in the Crisis Resolution priority category will receive services and come off the waiting list. There are 7700 people on DDA's waiting list – 1400 in crisis priority categories.
WAITING LIST EQUITY FUND (WLEF)	\$460,000 Total Funds (<i>\$287,000 Special Funds + \$173,000 in Federal Funds</i>)	Approximately 37 people on DDA's waiting list will receive community supports using funds from the WLEF, which prioritizes people with the oldest caregivers.
LOW INTENSITY SUPPORT SERVICES	\$4.5m General Funds	This is level funding from FY2014 and will be used to purchase services; administrative costs are covered elsewhere in the budget. More than 2200 people will receive LISS.
EMERGENCIES	\$1 million Total Funds (<i>\$517,000 General Funds + \$57,000 Special Funds + \$444,000 Federal Funds</i>)	Approximately 60 people in emergency situations will receive services. This is important to avoid tapping waiting list funding for this purpose. This is less than ½ the amount allocated for emergencies in recent years.
COURT-INVOLVED COMMUNITY SERVICES	\$777,000 Total Funds (<i>\$422,000 General Funds + \$355,000 Federal Funds</i>)	These funds will be used to provide community supports & services to approximately 25 people w/developmental disabilities involved in the court system.
RATE INCREASE FOR COMMUNITY SERVICES	\$18.3 million (<i>\$10.2m General Funds + \$8.1 m in Federal Funds</i>) Mid-year 4% rate increase	Community service provider rates will increase 4% beginning January 1, 2015, halfway through the fiscal year.

BUDGET LANGUAGE

The final version of the FY 2015 State budget passed by the legislature stipulates that:

- ◆ The Department of Health and Mental Hygiene (DHMH) must report to the General Assembly on the percentage of individuals in the Developmental Disabilities Administration's Community Services Program who are being served through the Home and Community-Based Services Waiver (\$250,000 is withheld from DDA until the report is submitted and reviewed).
- ◆ DDA may not expend \$250,000 of its budget unless it has taken corrective action with respect to all repeat audit findings on or before November 1, 2014 and a report is submitted to the budget committees by the Office of Legislative Audits listing each repeat audit finding along with a determination that each repeat finding was corrected.
- ◆ DHMH must determine all cost savings realized due to nonpayment to community service providers for weather-related closures in FY 2014 and 2015 and implement a methodology to distribute funds from this cost savings to: 1) providers that experienced loss of revenue due to weather-related closures and 2) residential service providers that experienced weather-related costs including staff overtime, resident relocation, snow removal, or other costs necessary to ensure health and safety.

DEVELOPMENTAL DISABILITIES ADMINISTRATION RELATED BILLS

HB 295: Maryland Minimum Wage Act of 2014 (passed)

Beginning in 2015, this bill raises Maryland's minimum wage incrementally until it reaches \$10.10/hour in 2018. Concurrently, this bill mandates a 3.5% rate increase annually for DDA community services for fiscal years 2016-2019. The increase in funding over those four fiscal years is expected to total over \$140 million. The rate increase is not limited to wages and benefits, but the most significant factor was an intention to ensure that direct support staff continues to be paid above minimum wage given the importance of their roles and their responsibilities.

The bill stipulates that a portion of the funds provided for a rate increase "may be allocated to address the impact of an increase in the state minimum wage on wages and benefits of direct support workers employed by community providers licensed by the developmental disabilities administration." A companion bill (HB 1238) includes provisions to ensure that service providers do, indeed, increase wages in a manner that continues to keep direct support professional wages ahead of the State's minimum wage (see HB 1238 below).

HB 1238: Developmental Disabilities Administration – Payment of Providers (passed)

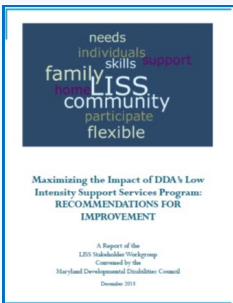
As related to the 3.5% rate increase for community services described in HB 295 above and to ensure that a portion of this increase goes to direct support staff wages so they remain proportionately higher than the State's minimum wage, this bill stipulates that : "the percentage of a community provider's total reported operating expenses, excluding interest on capital and other capital expenses, that is spent on direct support employee salaries, wages, and fringe benefits for a fiscal year ... may not be less than the percentage of the community provider's total reported operating expenses spent on direct support employee salaries, wages, and fringe benefits for fiscal year 2014." This applies to FY 2015-19.

The bill establishes reporting requirements for service providers that will allow DDA to assess whether this requirement is met each year. Furthermore, if the requirement is not met, DHMH may recoup funds from the provider if there are not mitigating circumstances justifying noncompliance.

HB 1238 continued

In addition, HB 1238 will impact provider rates in the long term. This bill requires DDA to conduct an independent cost-driven, rate-setting study to set provider rates for community-based services. DDA must consult with stakeholders when conducting the study and developing the new payment system and must incorporate the findings of the study. The legislation stipulates that the new payment system must: assess the needs of an individual receiving services in a manner that reflects the findings of the study, provide adequate working capital payments to providers, and establish a sound billing and payment system including a timely and efficient payment schedule. A wholesale, comprehensive data-driven assessment and adjustment of provider rates has been long awaited.

SB 418/HB 556: Developmental Disabilities Administration – Low Intensity Support Services (passed)



This bill lowers the annual funding cap for DDA Low Intensity Support Services from \$3000 to \$2000 per individual. This bill originated from a report issued by the MD DD Council:

"Maximizing the Impact of DDA's LISS Program: Recommendations for Improvement." This change to LISS along with others that DDA is implementing should result in at least 500 additional people supported by the LISS program each year. In addition, the Council expects the changes will result in more people who have never accessed LISS funds before being served and LISS reaching more people from underserved communities.

SB 606: Developmental Disabilities Administration – Deputy Secretary (passed)

This bill eliminates the Developmental Disabilities Administration Director position and in its place establishes a new position, Deputy Secretary for Developmental Disabilities within the Dept. of Health and Mental Hygiene. Elevating the lead position for DDA to Deputy Secretary status should help ensure DDA continues to receive the highest level of attention necessary to resolve remaining issues and implement effective strategies for emerging needs into the future.

SB 909/HB 1259: Income Tax Check off - Developmental Disabilities Services and Support Fund – Designation (passed)

This bill changes the name of the "Developmental Disabilities Waiting List Equity Fund Contribution" check-off to the "Developmental Disabilities Services and Support Fund Contribution" on Maryland income tax returns. This is one of three "check-offs" on the tax form that provide taxpayers an opportunity to contribute part of their tax returns for certain purposes.



The other two are the Chesapeake Bay Fund and the Cancer Fund. The name change was recommended by the MD DD Council, Dept of Disabilities and The Arc MD because the previous name was confusing. For more information on the Fund, visit MDOD's website.

SB 432: Department of Health and Mental Hygiene - Plan for Creation and Implementation of a Database of Direct Access Employees (failed – unfavorable report)

This bill would have required the Department of Health & Mental Hygiene to develop a plan, with stakeholder input, for the creation and implementation of a database for all "direct access employees." That is, employees who have "routine direct access to dependent adults in the adult dependent care program." This includes DDA providers. The database would have included employment history information intended to help providers during the screening and hiring process.

HB 415: Sales and Use Tax - Ammunition and Firearms - Developmental Disabilities Funding (failed – no committee vote)

This legislation would have required the Comptroller to distribute the sales and use tax revenues from the sale of ammunition and firearms to the DDA Waiting List Equity Fund (WLEF) rather than the general fund. The WLEF funds services for people with developmental disabilities on the DDA waiting list, with most funds prioritized for people with the oldest caregiver.

MARYLAND STATE DEPT. OF EDUCATION BUDGET

The vast majority of MSDE's budget was level funded in FY 2015, including \$10.4 million for the Maryland Infants and Toddlers Program and approximately \$12 million for the Autism Waiver program. There was no money appropriated for additional slots this year so the Autism Waiver program will continue to serve 1000 children. Over 4000 children with autism remain on the Autism Waiver registry, waiting for services.

The Division of Childhood Development's budget increased slightly due to the influx of state funds (\$4.3 million) to expand access to prekindergarten for young children and federal funds (\$10 million) for the child care subsidy program, which provides financial assistance with child care costs to eligible working families.

EARLY CHILDHOOD

HB 297/SB 332: Prekindergarten Expansion Act of 2014 (passed)

This bill, along with \$4.3 million in the MSDE - Division of Early Childhood Development's budget, created a competitive grant system to expand public prekindergarten to eligible 4 year olds from economically disadvantaged backgrounds. In addition, the bill changed the definition of economically disadvantaged to include families whose income is no more than 300% of the federal poverty guidelines. This will impact children with disabilities who are from economically disadvantaged backgrounds.

HB 461: State Early Childhood Advisory Council (passed)

This bill codifies the existing Early Childhood Advisory Council (ECAC) into law. Amendments added additional representatives to the membership, including the MD DD Council and the state associations that represent child care and before and after school care providers. The Council also worked to ensure that the bill requires the ECAC to complete an additional assessment about the availability of high quality early childhood education and development programs that serve children with and without disabilities together. Maryland's ECAC was established by Executive Order in 2008 to continue the commitment to early childhood education. The ECAC's ultimate goal is for every child in the state to enter kindergarten fully ready to learn.



The MD DD Council supports initiatives that increase access to early childhood education for all children, including children with disabilities. According to federal law, young children with disabilities should have the same opportunities to meaningfully participate in all early childhood education programs with their non-disabled peers. [i] Yet some of these programs remain inaccessible to young children with disabilities and their families. According to the 2013-2014 Maryland School Readiness Report, only fifty-six percent (56%) of young children with disabilities entered kindergarten fully ready to learn compared to eighty-five percent (85%) of their non-disabled peers. [ii] Students with disabilities have the lowest percentage of school readiness compared to all other specific groups analyzed in the report.

EARLY INTERVENTION AND SPECIAL EDUCATION

HB 413: Special Education – Individualized Education Program Parental Notice Requirements & Service Models List (passed)

This will require that parents of a child with a disability be provided, in plain language, a verbal and written explanation of the parents' rights and responsibilities in the IEP process. The parents may request this information at any subsequent meeting. The Maryland State Department of Education (MSDE) will also have to adopt regulations to define what information should be provided to parents. *Although federal and state laws currently require that parents receive notice of their procedural rights at least annually, this bill will focus additional attention on parental rights by requiring a verbal explanation of rights in addition to a written explanation; this will help more parents in understanding the full range of rights provided to them by federal and state laws.*



In addition, each local board of education will be required to put a list of all special education service delivery models in the local school system on its website. The website must also make it clear that decisions regarding the placement of a child in a special education delivery model will be made by an IEP team in consultation with the child's parents and consistent with the least restrictive environment requirements of the federal Individuals with Disabilities Education Act (IDEA). *The IDEA requires that students with disabilities, ages 3 through 21, receive a free and appropriate public education with the services and supports necessary to be educated in the least restrictive environment with their non-disabled peers to the greatest extent possible.*

HB 428: Children – Maryland Infants and Toddlers Program – Eligibility (passed)

Current state policy allows families to choose to receive services through the MD Infants and Toddlers Program until the school year following the child's 4th birthday. This bill simply establishes this option in statute (law).

On February 1, 2010, Maryland began offering families of eligible children the choice to continue to receive early intervention services through an Individualized Family Service Plan (IFSP) or to begin services through an Individualized Education Program (IEP) when their child turns three. The extended option offers families of eligible children the choice to remain on an IFSP after age three and until the beginning of the school year after the child's fourth birthday. With 67% of families choosing this extended option, the data is clear that this is what families want. [iii]

HB 440/SB 58: Education – School Vehicles – Authorized Riders (passed)

This bill prohibits an individual from riding a school vehicle unless they are a student, school system employee or support a student with a disability in accordance with the student's Individualized Education Program, 504 plan, or other student-specific written plan. Over the last two years, the MD DD Council worked with the bill sponsors to ensure nurses, aides or other individuals authorized to work with a student were also allowed on the school vehicles. This year, the bill was introduced and passed with the requested language specific to students with disabilities.

HB 798/SB 701 – Education – Children with Disabilities – Habilitative Services Information (passed)

This bill requires school systems to provide the parents of a child with a disability information about access to habilitative services, including a copy of the Maryland Insurance Administrations' *Parents' Guide to Habilitative Services*. Habilitative services are therapeutic services like occupational, speech and physical therapy that are provided to children with genetic conditions to enhance the child's ability to function. *The DD Council was a member of the Access to Habilitative Services Workgroup established by legislation in 2012. The Workgroup created the Parents' Guide to provide more information and resources to families about habilitative services. The Guide can be found on the Maryland Insurance Administration's [website](#).*

EARLY INTERVENTION AND SPECIAL EDUCATION continued

HB 1198/SB 779 – Education – Due Process Hearings for Children with Disabilities – Burden of Proof (failed – no committee vote)

This would have required school systems to bear the burden of proof in a special education due process hearing -- *regardless* of who files for a hearing. Currently, if a family thinks the school system did not provide a free, appropriate public education (FAPE) as required by law, they can file for a due process hearing. If the family files for a hearing, the family has the burden of proving that the school system did not provide a free, appropriate public education. Instead, this bill would have required the school system to prove that a free, appropriate public education was provided to the child with a disability.

MISCELLANEOUS

SB 654: Health – Down Syndrome – Required Information (passed)

This requires the DHMH to provide up-to-date, evidenced-based information to health care facilities and health care providers that provide prenatal care, postnatal care, or genetic counseling to expectant parents who receive a prenatal test result for Down syndrome and parents of a child diagnosed with Down syndrome. Information will have to address development, outcomes, treatment options and include contact information for support programs and services.



HB 1019: Prince George's County - Adults with Developmental Disabilities Citizen's Advisory Committee - Sunset Repeal (passed)

This bill makes permanent the Adults with Developmental Disabilities Citizen's Advisory Committee in Prince George's County, which was first established in 2012 and set to automatically repeal. The committee is to include people with developmental disabilities and family members, in addition to representatives from service providers and various state and other entities. The committee is charged with various actions relating to advocacy and promoting the well-being of individuals with developmental disabilities in Prince George's county.

HB 637/SB 537: Maryland Medical Assistance Program – Rare and Expensive Case Management Program – Waiver Amendment (failed – no committee vote)

This bill would have required the Department of Health and Mental Hygiene (DHMH) to amend Maryland's Medicaid program to remove two technical barriers that disqualify adults who need nursing services and who are at risk for institutionalization or who are in institutions, and who otherwise qualify for the REM Program. REM is part of Maryland's Medicaid program that provides services for individuals with rare disabilities and offers medically necessary nursing services for adults as well as other services. Less than 200 adults currently receive in-home nursing services through the REM Program.

SB 721: Maryland Medical Assistance Program – Services for Children with Down Syndrome (failed – no committee vote)

This bill would have required the DHMH to apply to the federal Centers for Medicare and Medicaid Services (CMS) for a home- and community-based services waiver in order to receive federal matching funds for services to children with Down syndrome who are younger than age 22 and who meet an institutional level of care.

MISCELLANEOUS continued

HB 1497: Maryland Medical Assistance Program – Services for Children with Prader-Willi Syndrome (failed – no committee vote)

This bill would have required the DHMH to apply to the federal Centers for Medicare and Medicaid Services (CMS) for a home- and community-based services waiver in order to receive federal matching funds for services to children with Prader-Willi syndrome who are younger than age 22 and who meet an institutional level of care.

HB 366: Home Act of 2014 (failed- withdrawn)

This bill would have prohibited landlords and property owners from discriminating against people who are seeking housing based on their source of income. Negotiations between the advocates and various parties ran out of time, but could lay the groundwork for future efforts. This bill has been introduced and failed in previous sessions.



People with developmental disabilities have a very difficult time finding housing they can afford and many rely on Supplemental Security Income as a source of their income. People with disabilities are completely priced out of today's housing market. A national report, *Priced Out in 2012*, found that a person receiving Supplemental Security Income in Maryland cannot afford to rent a modest one- bedroom apartment *without rental assistance*. On average, they would have to spend 150% of their monthly SSI benefits on rent for a one-bedroom apartment and 134% for efficiency, which is impossible.

SB173/ HB 477: Vehicle Laws - Protective Headgear Requirement for Motorcycle Riders – Exception (failed- unfavorable committee report)

This legislation would have exempted any one age 21 or older with at least \$10,000 in health insurance coverage for injuries incurred in a motorcycle accident from the requirement that a helmet be worn. The Council was opposed to the bill because of the increased risk of head injury when a helmet is not worn.

OTHER BILLS

1117 Senate bills and 1555 House bills were introduced this session

FOR THE STATUS OF ALL SENATE BILLS, GO [HERE](#)

FOR THE STATUS OF ALL HOUSE BILLS, GO [HERE](#)

[i] 20 USC 1400 (IDEA, Part B, §619).

[ii] *Children Entering School Ready to Learn: 2012-2013 Maryland Model for School Readiness, Executive Summary*, pg. 5.

[iii] January, 2014, Maryland State Department of Education, *Building a Birth through Five System of Services for Children with Disabilities and Their Families*.

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